

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

C/M

-----		X
JESUS GARCIA, JR.,	:	
	:	
Petitioner,	:	<u>ORDER</u>
	:	
- against -	:	13 Civ. 3014 (BMC)
	:	
SUPERINTENDENT GRIFFIN,	:	
	:	
Respondent.	:	
	:	
-----		X

Petitioner commenced this action by filing a petition for a writ of habeas corpus in the U.S. District Court for the District of Columbia. The petition was eventually transferred to this Court based on the assessment that petitioner was challenging, under 28 U.S.C. § 2254, his conviction or sentence imposed by a New York State court in Queens County.

Because, however, the petition was indecipherable, by Order dated May 23, 2013, the Court granted petitioner leave to amend his petition seeking habeas corpus relief, and included the form used to bring challenges to state court convictions under 28 U.S.C. § 2254. Petitioner was advised that he must complete the form and file it with the Court by June 13, 2013 or his petition would be dismissed with prejudice. On June 18, 2013, the Court's May 23, 2013 Order, which was sent to petitioner at Southport Correctional Facility, was returned to the Court by the United States Postal Service as undeliverable, apparently because the docket in this case identified petitioner by an incorrect New York State Department of Corrections and Community Supervision Department Identification Number ("DIN").

By Order dated June 18, 2013, the Court directed the Clerk to revise the docket to reflect petitioner's correct DIN and to resend a copy of the May 23, 2013 Order and the § 2254 form to petitioner. The June 18, 2013 Order also advised petitioner that he must return the completed §

2254 form by July 9, 2013 or his petition will be dismissed with prejudice. Petitioner has failed to respond to the Court's June 18, 2013 Order and has not submitted the § 2254 form.

Accordingly, the petition for a writ of habeas corpus is dismissed with prejudice. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Further, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 921 (1962).

SO ORDERED.

Digitally signed by Brian M. Cogan

U.S.D.J.

Dated: Brooklyn, New York
July 17, 2013